



DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES

Policy No.: DOC 1.3.40	Subject: TIME KEEPING	
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 6 - plus 1 attachment	
Section 3: Personnel	Revision Date: Jan. 7, 1999 March 31, 1999; May 28, 1999; Feb. 2, 2000; March 14, 2002	
Signature: /s/ Bill Slaughter	Effective Date: March 1, 1997	

I. POLICY:

It is the policy of the Department of Corrections to establish a Department time keeping form and procedures to advise employees and supervisors of the method that will be utilized to record time worked and leaves of absences for compensation purposes. When this policy is in conflict with existing labor agreements, the labor agreement will be followed.

II. IMPLEMENTATION:

This policy was revised with content changes on March 14, 2002.

III. AUTHORITY:

The Fair Labor Standards Act of 1938
39-3-40, MCA. Minimum Wage and Overtime Compensation
2.21.3103 A.R.M. Time and Travel Expenses
24.16.101 A.R.M. Wages and Hours
3.0210 of the Montana Operating Manual. Overtime and Nonexempt Comptime
3.0211 of the Montana Operating Manual. Exempt Comptime
3.0521 of the Montana Operating Manual. Payroll Rules
DOC 1.3.7. Compensatory Time and Overtime
DOC 1.3.8. Compensatory Time For Nonexempt Employees
Thornton vs. Commissioner of Labor 190 MT 442

IV. DEFINITIONS:

Overtime is defined by Department of Corrections policy as "all hours worked and all hours required or permitted to be worked by a nonexempt employee which exceed forty (40) hours within the

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prescribed 168 hours established as the workweek. All overtime hours are subject to a premium rate which is one and one-half (1½) times the employee's regular hourly rate of compensation".

Refer to DOC 1.3.34, Personnel/Payroll Definitions for additional information on definitions in this policy which may need clarification.

V. PROCEDURES:

A. The following must be considered by a supervisor before overtime/compensatory time or a leave of absence is approved:

1. The Supervisor should be aware of each employee's classification (exempt or non-exempt) under the Fair Labor Standards Act in order to apply pay appropriately.
2. The workweek for the Department begins at 12:01 a.m. on Saturday and ends at midnight on Friday.
3. The first 40 hours of paid time in any week are regular hours, regardless of what days the hours are worked, even if the employee works more than eight hours on a given day (unless a collective bargaining agreement dictates otherwise).
4. Where not restricted by a labor agreement, a **supervisor has the authority**, under ARM 2.21.1713(4)(c) and M.O.M., to adjust an employee's work schedule in a workweek or to require an employee to take time off during the same workweek without pay to maintain a 40-hour week.

B. Before annual leave, sick leave, compensatory time, or FLSA compensatory time off is approved, the supervisor must consider whether the combination of hours worked and paid leave will result in more than 40 hours in the workweek. The supervisor shall **normally** only approve paid leave that results in the employee receiving pay for 40 hours. If an employee requests to take paid leave in advance, the supervisor must notify the employee that the use of **paid leave will only be approved if it does not create an overtime/compensatory time accrual.**

C. A supervisor shall approve hours worked outside the regularly scheduled shift in advance, whenever possible. When possible, employees must be notified at the time extra time worked is

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approved, if the hours will be paid at the overtime rate, or if their schedule will be adjusted to offset the hours and avoid the overtime liability.

- D. A supervisor can approve accrual of FLSA compensatory time if the employee has signed an agreement to the accrual of FLSA compensatory time in lieu of receiving overtime pay as outlined in Department policy DOC 1.3.8.

- E. The Annual Vacation Leave Policy, MOM Policy 3-0305, ARM 2.21.227(3), prohibits an agency from approving annual leave **which would result in a total of more than 40 hours in a pay status for the workweek.** In no case may the number of hours of annual leave taken exceed the number of hours the employee is regularly scheduled to work.

- F. The Sick Leave Policy, MOM Policy 3-0310, ARM 2.21.123, states: ~~A~~It is the policy of the state of Montana to grant executive branch state employees sick leave benefits in accordance with section 2-18-618, MCA~~@~~. It also states that ~~A~~Nothing in this policy guarantees approval of the granting of such leave in any instance. Each request will be judged by the agency in accordance with this policy.~~@~~

- G. If an employee is classified as an "exempt" employee under the Fair Labor Standards Act, the employee does not receive premium pay but rather hour per hour worked compensatory time. The Exempt Compensatory Time Policy, MOM Policy 3-0211, ARM 2.21.1812 states:
 - (1) "An exempt employee must obtain approval from his or her supervisor, in advance whenever possible, to work hours which may result in the accrual of exempt compensatory time.
 - (2) "The employee's supervisor determines whether hours worked by an exempt employee which exceed 40 in a workweek will be accrued as exempt compensatory time under these rules. The supervisor may approve or deny the accrual of exempt compensatory time either before or after the hours are worked~~@~~and;
 - (3) "An agency may adjust the schedule of an exempt employee within a workweek to avoid the accrual of compensatory time. An agency may require an exempt employee to take accrued exempt compensatory time off during any workweek.~~@~~

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- H. If an exempt or non-exempt employee is scheduled 'on call', the time authorized by the policy is not considered actual time worked. The employee would enter the hours on call for each workday on the appropriate line on the time keeping form, but the hours are not counted toward the 40-hour workweek.
- I. The attached Time Keeping form will be utilized to record time worked and leave of absence unless there is a compelling reason not to do so which is approved by the Warden/Superintendent or Division Administrator. Employees must sign the Time Keeping form after the last shift of the pay period worked by the employee to verify that the hours claimed are accurate and complete. Refusal to sign the Time Keeping form is cause for discipline up to and including termination. Payroll personnel may refuse to process unsigned time sheets.
1. A Time Keeping form may be completed electronically or manually, however, it must be signed manually by the employee and supervisor.
 2. It is the responsibility of the employee to retain a copy of the Time Keeping form for the employee's records.
- J. If an employee fails to submit a time record as required in this rule, the employee's supervisor shall submit a time record based on the supervisor's knowledge of hours worked, including overtime or compensatory time, and leave used. The employee is responsible for documenting and notifying the agency of any necessary corrections after the fact
- K. Supervisors are responsible for verifying the hours worked by signing the time keeping form. Once a supervisor signs a timesheet, that supervisor or designee shall deliver it to payroll. Supervisors must take all reasonable precautions to ensure that they do not provide employees with opportunities to alter time sheets.
- L. Under no circumstances will payroll request time keeping forms before the last shift of the pay period.
- M. The following examples illustrate the proper method for calculating hours paid on a time sheet:
- Example 1. Extra Hours Worked**
- Assume the employee has worked the following schedule:
- Saturday Sunday Monday Tuesday Wednesday Thursday Friday

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The employee is regularly scheduled to work eight hours per day, Monday through Friday. However, on Monday, the supervisor asks the employee to work an additional two hours. If the workload allows, the employee may be released by the supervisor without pay for two hours at some point later in the week so that the employee would not exceed the 40-hour time limit. (In the example above, the employee was released for two hours on Friday.) If the supervisor finds it necessary for the employee to remain for the entire eight-hour shift on Friday, then the employee will accrue two hours of overtime/compensatory time on Friday, the day the 40 hours limit is exceeded.

Example 2. Extra Hours Worked During a Week When An Employee Has Requested to Use Annual Leave, Sick Leave, FLSA Compensatory Time, Compensatory Time, Military Leave, etc.

Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday
8	8	8	8	8		
				employee requests:	8	8

Assume the employee is regularly scheduled to work eight hours per day, Monday through Friday. The supervisor has requested the employee to work Saturday and Sunday this week, and the employee worked those days. The employee would not be in an overtime/compensatory time status for Saturday through Wednesday since the 40-hour limit would not be exceeded until Thursday. The employee had previously requested to use paid leave on Thursday and Friday. The supervisor should not approve annual leave for Thursday and Friday, since the approval of leave would exceed the 40 hours in a pay status for the workweek. The supervisor should instead approve leave without pay for Thursday and Friday.

Example 3. Extra Hours Worked With A Request of Sick Leave

Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday
8	8	8	8	8		
				employee calls in sick:	8	8

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Assume the employee is regularly scheduled to work eight hours per day, Monday through Friday. The supervisor had requested the employee to work Saturday and Sunday, and the employee worked those days. The employee would not be in an overtime/compensatory time status for Saturday through Wednesday since the 40-hour limit would not be exceeded until Thursday. The supervisor has approved overtime/compensatory time for Thursday and Friday. The employee calls in sick on Thursday and Friday. These hours would not **normally** be approved as paid time off. The Sick Leave Policy, MOM Policy 3-0310, ARM 2.21.123 states: **Nothing in the sick leave policy guarantees approval of the granting of such leave in any instance.**@ In this situation, the supervisor would **normally** approve leave without pay for Thursday and Friday. However, if the supervisor's intention was to grant overtime for the time worked outside of the normal workweek, there is no prohibition on the supervisor for granting sick leave on Thursday and Friday which would result in time-and-one-half payment.

Example 4. Extra Hours Worked on a Normal Day Off with a Pre-approved Annual Leave Day during the Same Workweek.

Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday
6	0	8	8	8	8(2)	
pre-approved annual leave:						8

In this example, the employee has worked six hours on Saturday which is the employee's normal day off. Tuesday of the same week was pre-approved as a day of annual leave which at the time of approval would have normally resulted in a 40-hour week. However, after the pre-approval, the employee worked six hours on Saturday which changes the circumstances of the pre-approval. On Wednesday or Thursday, the supervisor and the employee should discuss the remainder of the workweek and either allow the employee to work only two hours on Friday with eight hours of annual leave on Tuesday, or the employee can work eight hours on Friday which will result in six hours of overtime.

In each of these examples, the supervisor and the employee are requested to work together to eliminate paying premium pay or accruing compensatory time by using accrued leave time as part of the base 40 hours prior to premium pay.

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VI. CLOSING: Questions concerning this policy should be directed to the Payroll Specialist or to the Human Resources Bureau.